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BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of )  
 )  
Replacement of Part 90 by )  
Part 88 to Revise the Private )  
Land Mobile Radio Services and )  
Modify the Policies Governing Them )  
 )  
and )  
 )  
Examination of Exclusivity and )  
Frequency Assignment Policies )  
of the Private Land Mobile Radio )  
Services )

PR Docket No. 92-235

To: The Commission

COMMENTS  
OF THE  
AMERICAN PETROLEUM INSTITUTE

THE AMERICAN PETROLEUM INSTITUTE

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Dated: February 7, 1997

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**SUMMARY**

API welcomes ITA's effort to resolve the service consolidation matter. However, API believes that ITA's planned solution would not sufficiently protect industrial users -- such as petroleum and natural gas producers and transporters, electric utilities, and railroads -- that have special safety communications needs. Thus, API urges the FCC to create five (5) pools, including an Industrial Safety Service pool.

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To: The Commission

COMMENTS  
OF THE  
AMERICAN PETROLEUM INSTITUTE

The American Petroleum Institute ("API"), by its attorneys, hereby submits these Comments in response to the "Consolidated Frequency Table" and "Proposed Technical Blueprint for Frequency Use Limitation in the Post-Refarming Environment" filed by the Industrial Telecommunications Association ("ITA") with the Federal Communications Commission ("Commission") on January 21, 1997.<sup>1/</sup>

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<sup>1/</sup> 62 Fed. Reg. 4717 (January 31, 1997).

**I. PRELIMINARY STATEMENT**

1. API is a national trade association representing approximately 350 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

2. The petroleum and natural gas industries were pioneers in the use of two-way mobile radio for industrial applications. In recent years, some two-way mobile radio communications have been served by other than the traditional private system. Even though use of private, internal systems may be supplemented with cellular and Specialized Mobile Radio ("SMR") systems, where those services are available and can meet some needs, there

remains a very critical requirement for privately-owned and operated two-way mobile radio systems in these industries. The energy industries also expect to be users of new Personal Communications Services ("PCS") in areas where these services are offered and can be utilized for selected functions. Notwithstanding the advent of these additional mobile radio communication options, the oil and gas industries will continue to be large users of private land mobile radio systems for several reasons. First, public switched systems frequently become incapacitated during emergency conditions because of peak subscriber demand. Private systems are essential in these circumstances to insure the ongoing safe execution of energy operations where hazardous conditions could develop without reliable communications. Moreover, private systems will continue to be needed in areas where there are inadequate or no public telecommunications facilities.

3. API remains excited about the prospect for enhanced spectrum efficiency that will eventually result from the introduction of new technologies in the Private Land Mobile Radio Services ("PLMRS"). API has actively participated in the spectrum refarming process from its inception. In fact, API was one of six parties that submitted Joint Comments and Joint Reply Comments in

response to the Commission's Notice of Inquiry in PR Docket No. 91-170 that addressed spectrum efficiency in the PLMRS. In 1993, API submitted Comments and Reply Comments in response to the Notice of Proposed Rule Making adopted by the Commission on October 8, 1992 that initiated this proceeding.<sup>2/</sup> Throughout this proceeding, API has advocated that extremely careful analysis and a prudent "due diligence" examination of the issues occur before final decisions are made and implemented.

## II. COMMENTS

### A. **ITA'S Proposal Does Not Adequately Protect Those Industrial Licensees With Public Safety Obligations**

4. As one of the designated frequency coordinators for private radio licensees, ITA wishes to make the refarmed frequencies available promptly for use by private land mobile radio eligibles. API appreciates ITA's effort to facilitate the conclusion of this protracted rule making proceeding. In response to the FCC's invitation for submission of third party comments, API feels compelled to

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<sup>2/</sup> 57 Fed. Reg. 54034 (November 16, 1992).

disagree with two of the basic assumptions cited in ITA's proposal.

5. First, API disagrees with ITA's assumption that two private radio service pools would offer the best solution: (1) a Public Safety Pool and (2) a Private Wireless Pool. API strongly believes that such a two-pool approach would not provide adequate safeguards for non-public safety users, such as those in the petroleum and natural gas industries, who nonetheless have public safety obligations. ITA's two-pool approach would simply lump together any user that is not strictly defined as a Public Safety provider, regardless of the nature of public safety service performed by that user.

6. API instead favors consolidation of the radio services into five pools, as initially recommended in API's Supplemental Comments filed in this proceeding. These five pools include: (1) Emergency Response Safety Service; (2) Industrial Safety Service; (3) Non-Commercial Radio Service; (4) SMR Service; and (5) General Category. Exhibit A contains a more thorough review of API's consolidation proposal.



7. Entities such as petroleum and natural gas companies that have special public service functions would be included in the Industrial Safety Service pool. Exhibit B details some of these public service requirements. Other members of the Industrial Safety Service pool would include eligibles in the Manufacturers Radio Service and Forestry Radio Service, because these licensees currently share the use of many VHF and UHF channels with the Petroleum Radio Service. Nationwide, the authorizations for use of these existing channels are inextricably intertwined among licensees in these three services. Utilities and railroads would also be included in the Industrial Safety Service pool because of their unique public safety communications requirements.<sup>3/</sup>

8. In this way, industrial entities that protect and promote public safety objectives would be afforded the protection they need to continue to perform their communications functions in compliance with federal, state and local government safety regulations, as well as their

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<sup>3/</sup> UTC advocates a similar position as API in its proposal. Specifically, UTC suggests adoption of a "Public Service" pool that would include petroleum, power, railroad, forestry conservation, local government, and highway maintenance eligibles. See, Submission of UTC, the Telecommunications Association, January 28, 1997. Regardless of the name given to the pool, API believes there is a clear consensus that industrial safety service providers require a separate pool.

internal proprietary industry safety codes. Without such a designated pool, API seriously doubts that its members would achieve the priority access to frequency assignments which is so necessary to the provision of redundant and highly reliable communications.

**B. Private Mobile Radio Communications are Vital in the Petroleum and Gas Industry**

9. The second erroneous assumption underlying ITA's proposal is ITA's apparent belief that Part 90 rule revisions will be adopted to reserve spectrum for "special requirements" of industrial safety entities. ITA defines these "special requirements" to include oil spill clean up channels, emergency response communications, airline frequencies, and slave locomotive systems. While these special requirements play an important role in protecting public safety, worker safety, and the environment, they are only a small part of the industrial safety communications systems utilized to provide such protection.

10. For example, API members and other Petroleum Radio Service eligibles depend upon oil spill containment and clean up channels to respond to emergency situations and to conduct preparatory training exercises. These ten 25 kHz

oil spill containment and clean up operations channels consist of a tiny fraction of the radio spectrum utilized in the petroleum and natural gas industries *each moment of every day* to protect public safety, workers, and the environment.

11. As API pointed out in the Commission's recent Public Safety proceeding, WT Docket No. 96-86, reliable, two-way land mobile radio serves as an essential safety tool in every phase of oil and gas exploration, production, refining and transportation. For example, communications must be maintained during exploration activities for the direction of personnel and equipment, control of and synchronization of multiple geophysical acoustical signal sources for oil and gas exploration, as well as for telemetering geophysical data. Drilling operations, by their very nature, involve hazards that can be minimized with reliable two-way mobile radio communications. After production is established, mobile radio continues to play a critical role in providing communications for the management of production sites where careful supervision must be maintained over the operation of valves, pumps, compressors and separation equipment. The safe operation of the extensive pipeline gathering systems and long-distance,

crude, petroleum products and natural gas pipelines would not be possible without reliable two-way mobile radio communications.

12. These same types of reliable communications are absolutely necessary in petroleum refineries where the safety of personnel demands clear channels of communication. Even in the marketing and distribution of these energy sources, mobile radio continues to play an important role in the transfer of natural gas at city gates, and the loading and delivery by rail, tank trucks and marine vessels of refined petroleum products to industrial, commercial and residential customers.

13. ITA's proposal to merge industrial safety service entities with the multitude of generic mobile radio licensees would create an indiscriminate licensing situation whereby the safety and reliability needs of industrial safety service entities would be relegated to a position of little or no significance. Industrial safety entities should not have to battle delivery services and other general mobile radio users for licenses or transmission time.

14. Rather than lump all non-Public Safety users together in such an indiscriminate fashion, API urges the Commission to take action which recognizes the unique needs of industrial safety services. These needs range far beyond the few "special requirements" contained in ITA's proposal. Indeed, it is ironic that, in this age of promotion of public safety, those industrial safety entities with stringent health, safety and environmental mandates might face the potential derogation of their ability to provide such communications in support of their required roles.

### **III. CONCLUSION**

15. Regardless of the label given to the respective pools, the principal goal of the Commission should be ensuring the availability of sufficient radio spectrum for guarding against loss of life, damage to property, and destruction of the environment. Based upon its experience as the Petroleum Frequency Coordinating Committee and its history of working with other radio services, API believes that ITA's blueprint falls short of achieving that critical objective by failing to adequately recognize the unique safety responsibilities of Petroleum Radio Service eligibles and similarly-situated entities. The Commission should create an Industrial Safety Service pool so that such

licensees can continue to meet federal, state, and local government requirements for health, safety and environmental protection. API urges the Commission to adopt API's proposal by creating a separate pool for Petroleum Radio Service eligibles, utilities, railroads, and other industrial users who employ their systems for essential safety communications requirements.

**WHEREFORE THE PREMISES CONSIDERED,** the American Petroleum Institute respectfully submits the foregoing Supplemental Comments and strongly urges the Federal Communications Commission to proceed in this matter in a manner fully consistent with the views expressed herein.

Respectfully submitted

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## EXHIBIT A

API proposes the creation of the following pools:

- (1) Industrial Safety Service: The Industrial Safety Service pool should include communications systems servicing: pipelines; refineries; oil and gas production; petrochemical plants; hazardous material transport, docking and loading operations; railroads; public utilities; and other industrial users who employ their systems for essential safety communications and are required by federal, state or local regulations or industry codes or standards, for safety considerations, to provide redundant or highly reliable communications to support their operations.
- (2) Emergency Response Safety Service: Police, Fire and other emergency response safety services.
- (3) Non-Commercial Radio ("NCR") Service: The NCR pool is for all current private radio services not covered by the Industrial Safety Service and Emergency Response Safety Service pools. NCR spectrum should not be allocated to commercial radio services. A vast amount of commercial spectrum is already allocated in other bands to PCS, cellular, satellite, SMR and other commercial services. Channels newly created by the spectrum refarming plan from existing PLMRS spectrum should remain "private."
- (4) Specialized Mobile Radio ("SMR") Service: Existing SMR allocations should be included in their own pool.
- (5) General Category Pool. Frequencies from the general category pool should be accessible to all PLMRS users.

## EXHIBIT B

For example, Occupational Safety and Health Administration ("OSHA") Report 3033 specifically requires refineries, petrochemical plants, oil pipelines and other facilities to maintain complex, reliable primary and secondary communications systems. See, Process Safety Management Guidelines for Compliance, OSHA 3113 at 25 (1992).

Similarly, Department of Transportation regulations for high-reliability communications systems and secondary communications systems cover the operation of high pressure natural gas pipelines. See, 49 C.F.R. § 194.107(d)(1)(ii); 49 C.F.R. § 194, Appendix A; 49 C.F.R. § 195.401(a); 49 C.F.R. § 195.402(c); 49 C.F.R. § 195.408.

Additionally, the Environmental Protection Agency ("EPA") has established risk management programs to deal with off site consequences of hazardous material spills and releases. See, Section 112R, Accidental Release Provisions of the Clean Air Act.

The U.S. Coast Guard places heavy communications requirements on oil companies as well. For instance, all applicants that own, construct or operate a deep-water port, such as an oil transfer facility, must describe the communications systems to be used in the construction and operation of a deep-water port. 33 C.F.R. §§ 148.109(g) and 148.109(v) (1996). U.S. Coast Guard regulations also require marine transportation-related facilities that transfer oil or other bulk hazardous materials to and from vessels to submit a response plan that describes the primary and alternative means of communications that would be utilized during an accidental discharge. 33 C.F.R. § 154.1035(e)(4) (1996). Communications system requirements are also placed on operators of waterfront facilities handling liquified hazardous gas to have continuous two-way voice communications between vessels and the transfer facilities. 33 C.F.R. § 127.111 (1996). Oil-bearing vessels are required by U.S. Coast Guard regulations to notify the Coast Guard of their primary and secondary communications methods to be utilized in order to notify appropriate parties in the event of an oil spill. 33 C.F.R. § 155.1035(b)(4) (1996) (married vessels); 33 C.F.R. § 155.1040 (1996) (unmarried tank barge).

The Minerals Management Service ("MMS") of the U.S. Department of Interior requires that operators of offshore facilities for oil exploration, drilling, production, storage, processing or transportation in federal or state waters file an Oil Spill Contingency Plan ("OSCP"). In the OSCP, operators must establish an oil spill response



center and a reliable communications system for directing the coordinated overall response operations in the event of an oil spill. 30 C.F.R. §§ 254.5 and 254.5(c)(7)(iii) (1996).